Sectt. II-27—40,000—14-10-36

Home (1938) Department.

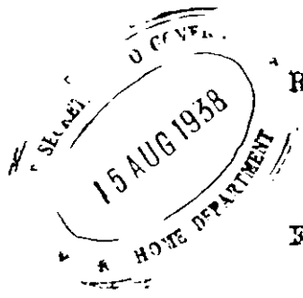
Ms SERIES.

G.O. No. 4638,

DATED 24-9-1938

[Despatch Abstract.]

Magistrate - Bench Court, Udipi Mrs. L. M. Fernandes - Appointed I Class Magistrate Cognizance - Conferred



Ref.C1-2876/M/38. S.Kanara Dt.Magistrate's Office,

Mangalore, 13th August 1938.

27875 E
15/8

From

Sri Rao Bahadur M. V. Vellodi, B.A.,

Dt.Magistrate of South Kanara.

To

The Secretary to Government,

Home Department,

M a d r a s.

Sir,

Magistrates - Special - I Class Bench - Udipi - Mrs. L. M. Fernandes - investiture of I Class powers.

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I enclose herewith an application for investing Mrs. L. M. Fernandes, a member of the I Class Bench, Udipi, with all the ordinary powers of a Magistrate of the I Class and also with powers to take cognisance under clauses (a) & (b) of Section 190 Cr.P.C. of all the offences mentioned in Section 260 of the Code arising within the jurisdiction of the I Class Bench of Udipi.

2. This Bench was presided over by the Sub Magistrate, Udipi, assisted by a non-official Vice-President. I have recently appointed the non-official Vice-President, as the President. It is necessary to have a Vice-President to attend to routine work including disposal of cases relating mainly to admissions or to withdrawals. I propose to ----- appoint the nominee as Vice-President. She has considerable experience of the work of the Court, by attending regularly and by taking considerable interest in the work. She is fit to be invested with such powers. I request therefore that the Government may be pleased to sanction the proposal and to invest Mrs. L. M. Fernandes with the powers asked for.

For Dt.Magistrate.

2/

Application for Magisterial powers under Section 14 of the Code of Criminal Procedure.

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1. Name of Taluk or Division.	Udipi Taluk, Udipi Town.
2. Present Office.	Member, I Class Bench, Udipi.
3. Name in full of the incumbent.	Mrs. Leonissa Marcelline Fernandes.
4. Total service in Magisterial department.	A She has been on the Bench since 1928 and was last re-appointed in G.O.R.505 Home, dated 1.6.37. (E)
5. Present powers how long exercised.	
6. Examination passed by the officer.	S.S.L.C. holder.
7. Qualifications of the officer.	
8. Nature of recommendation, under what sections and grounds thereof.	Please see covering letter. As recommended therein, Mrs.L.M. Fernandes may be invested with all the ordinary powers of a Magistrate of the I Class and also with powers to take cognisance under clauses (a) and (b) of Section 190(1) Cr.P.C. of all offences mentioned in Section 260 Cr.P.C. arising within the limits of the jurisdiction of the I Class Bench, Udipi.
9. Remarks.	

Conferred only on the Bench

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S.Kanara Dt.Magistrate's Office,
Mangalore, 13th August 1938.

For Dt.Magistrate of South Kanara.

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13.8.38

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U D I P I

12th. August 1938

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Fro.

Sri. V. Rama Rao,
Hon. Magistrate,
U D I P I.

To

The Secretary, to Government,
Home Department,
M A D R A S.

Sir,

I learn that there is a proposal to appoint a Vice- President to the Udipi Bench of which I am a member. I have been on the Benhh for about ten years and I believe I have not given room for any adverse criticism either from the Authorities or from the Public.

I belong to the famous Kalmadi Family which is one of the prominent families of Udipi Taluq. I have read upto the ----- Intermediate and I have done useful service in all social and public affairs in Udipi.

I understand from a talk with the Revenue Divisional Officer Kundapoor that he has suggested that Mrs. L.M.Fernandes be appointed as Vice-President. I may be permitted to mention that so far as qualifications and the length of the period on the Bench are concerned I have been on the Bench for the last ten years while she might have been a year or two more. I have been attending more sittings of the Bench than the sittings attended by her throughout ~~the~~ her period. I have read upto the Intermediate while she has not ~~has not~~ even completed her S.S.L.C. All things considered I am better equipped for discharging the duties of the Vice-President than she is.

I may be permitted to bring to your notice that she is the wife of a District Board servant and it seems to me inadvisable to appoint her when a large number of District Board cases come up before the bench.

4

I orally represented the matter to the District Magistrate who informed me that he has already passed orders. I am therefore bringing this matter to the Notice of the Government and request that the Government may be pleased to direct an enquiry into the relative merits of the present members of the Bench before approving any recommendations of the District Magistrate. I feel that the local authorities have not given the Collector any choice in the matter.

I therefore request that my claims might be considered for the proposed Vice-Presidentship.

I beg to remain,

Sir,

Yours most obediently,

K. Ramachandra

5/

Home (E) Dept

Endt. No. 27875 E1 dated. 25.8.38

Magistrate - Bench Court, Udipi - Mrs. L.M. Fernandes - Appointment as Vice-President - Ref. Petition from Sri K. Rama Rao, Udipi dated 12.8.38

Referred to the D.M. South Kanara for remarks.

pp 3-4 ante

To the D.M. South Kanara.
(with pp 3-4 cf to be returned with reply).

Dpd Vani

Dt. 25/8/38

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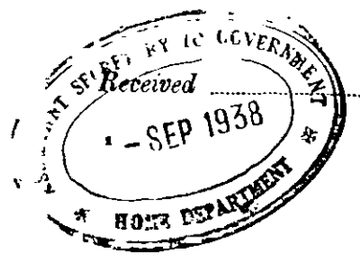
C.F. 30.

REVENUE DEPARTMENT.



30437 E

Registered 5/9 1938.

Subject.

COURTS - Bench Court, Udipi · Appointment as Vice-President-Petition from Sri K. Rama Rao, Udipi.

Government Endorsement No. 27875-E.1 dated 25th August, '38.

ENCLOSURES
No.
Spare copies

Rpt. No. 2876. M. 38.

Station Mangalore, Dated the 2nd September 1938.

From (Name) Sri Rao Bahadur M.V. Vellodi, B.A.,
(Designation) District Magistrate, South Kanara, Mangalore.

To The Secretary to the Government of Madras,
HOME Department.

Sir,

Sri K. Rama Rao interviewed me on the 10th of August with a request that he may be appointed as the Vice President of the Udipi Bench Court. I told him that I proposed to appoint Mrs. L.M. Fernandes. The petition to Government was submitted after the interview. My proposal to appoint Mrs. L.M. Fernandes was based on the recommendation of the Joint Magistrate, Coondapoor, who has given a definite opinion that, of the five Special Magistrates in Udipi excluding the President, Mrs. L.M. Fernandes is the best and has been taking keen interest in the working of the Court. My personal enquiries also corroborated the opinion expressed

P.T.O.

by the Joint Magistrate and so it was that I have requested for first class powers for her in my reference C.I.2876/M-38 dated 13th August 1938.

2. Mrs. L.M. Fernandes's husband is the Head Master of the District Board High School, Udipi. He is held in very high esteem locally. They are both non-interfering in disposition and both exert themselves in public activities which are sponsored by the Collector. I do not think that Mr. Fernandes's connection with the District Board will in any way interfere with his wife's work as Vice-President. It has not interfered with her work as Special Magistrate all these years.

3. Mrs. Fernandes has been on the Bench for about twelve years and has taken an unusually keen interest in the working of the Bench. I consider it, therefore, ~~must~~ such and proper that such a person should be appointed as Vice-President.

4. The petition forwarded with the Government endorsement is herewith resubmitted.

Your obedient servant,

M. U. Vallabh.

District Magistrate.

8/

Home (E) Dept

Magistrate - Bench Court, Udipi - Appointment of Vice-President -

pp 1-2 of C.27875.E. From the D.M. South Kanara, Ref. C.1.2876/M/38 Dated 13-8-38.
pp 1-4 of C.27876.E. Petition from Sri K. Rama Rao dated 12.8.38.

The D.M. South Kanara proposes to appoint Mrs. L.M. Fernandes, a member of the I class Bench Court at Udipi, as the Vice-President of the Bench and recommends the grant to her of the following powers: —

p1 of

(1) Powers of a Magistrate of the first class.

ibid

(2) Powers to take Cognizance of offences.

(B) Item (1): The orders in G.O. 1729 Judl. dated 14.8.1914 that as a rule the gentlemen selected to preside over first class Benches should be

B/p 5 retired Sub Judges, first Class Magistrates or Dt. Munsifs, have been relaxed in G.O. 1793 Home (Judl) dated 7.8.1918, & the D.M's nominee has

(F) 'A' on p 2 of. been in the Bench for the last 10 years and there seems to be no objection to investing her

pp 3-4 of with first class powers. Please see the petition from Sri K. Narayana Rao, stating that he is

p 3 of better qualified than Mrs. Fernandes and requesting

p 4 of that his claims might be considered for the Vice Presidentship. Under the second proviso to rule 1 of the rules issued with G.O. 1822 Home Judl

dated 13.8.1919, The D.M. can himself designate The President and Vice-President. But proposals are sent to Govt ~~because~~ for Conferment of × magisterial powers. It is submitted for orders whether The remarks of The D.M. may be obtained on the petition. If so, a draft Endt is submitted for approval.

× the highest powers which the Benches exercise under Section 15(2) Cr.P.C are generally Conferred on The Presidents and Vice-Presidents of Benches

Item 3: Under para 2 of Fin 116 Home dated 10.1.37, powers to take Cognizance of offences are Conferred on Benches of Magistrates and not on individual magistrates. Powers to take Cognizance of offences may accordingly be Conferred on the Benches of Magistrates at Udipi.

(H)

A ~~Consolidated~~ draft order will be put up after the D.M's reply ~~is received~~ to the Endt, proposed in respect of item (1) above, is received.

22/8 22/8

22/8

Issued as Endt. No. 27875 E-1 dated 25.8.38. p5 ct

C. 30437-E. From the D. M. South Kanara, Ref. C.I. No. 2876-M-38 dated 2.9.38. pp6-7 ct

—

Please see the remarks of the D.M. on the petition from Sri. K. Rama Rao. The Joint Magistrate, Coondapoor has given a definite opinion that of the 5 Spl. Magistrates in Udipi excluding The President, Mrs. L.M. Fernandes is the best and has been taking keen interest in the working of the Court. The personal enquiries made by the

pp6-7 ct

pp3-4 ct

p6 ct

3/ W

p6-7 of D-M. also Corroborated this opinion.

para 2 at p7 of 2/ Mrs. L.M. Fernandes is the wife of an employee under the Dt. Board. The D-M. does not think that MR. Fernandes's Connection with the Dt Board will in any way interfere with his wife's work as Vice-President. He has also stated that it has not interfered with her work as Spl. magistrate all these years.

3/ For orders whether the D-M's recommendation may be accepted. ~~If so a draft order is Submitted for approval.~~

7/9 cm

7/9

(8)

VDiPi Bench Court
Vice Presidentship

-9 SEP 1938

Please put up the file for me. ZRud 8/9.

9- 1938 ASSISTANT SECTY

30977-E

Please see the notes on pp. 2-3 ante. Orders are requested on para 3 on p 3 ante.

9/9 9/9

In view of the Hon'ble Mr. Justice Fernandez who is to be appointed V.P. of the Vdipi Bench Court as recommended by the D.H.

11.9.38

30437-E 14/9

M(C&P) Hon. Mr. Justice Fernandez may be appointed ZRud 17/9

A draft order is submitted for approval.

22/9 22/9

CSB 14/9

28/28/9/

12

C.F. 16.

Home (E) Dept

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

SUBJECT :— Magistrate - Benchs Court, Udipi - Mrs. L. M. Fernandes - Appointed first class - Cognizance powers - Conferred. —

READ AGAIN , dated 19

" " " 19

READ *ALSO* :— Ref. Cl.

C. No. 27875E From the D. M. South Kanara /No. 2876/M/38 dated 13-8-1938. pp1-2 cf

" Endt. To the .. " 27875E-1 " 25-8-1938. p3 cf

C " 30437E From the .. Ref. cf; 2876/M/38 " 2-9-1938. pp6-7 cf

Order Ms. No. 4638, dated 24-9-1938.

~~Resolution Routine~~

02

The following notification will be published in the Fort St. George Gazette :-

Notifications.

I

In exercise of the powers conferred by sub-section (1) of section 14 of the Code of Criminal Procedure, 1898 (V of 1898) the Government of Madras are hereby pleased to confer on

Mrs. Leonissa Marcelline Fernandes

P3-6 all the ordinary powers of a Magistrate of the first class and to direct that She shall sit as a member of the Bench of Magistrates established at Udipi in the district of South Kanara for the trial of the offences specified in, and subject to the provisions of, Home (Judicial) Department Notification No. 737, dated the 13th August 1919, published at pages 1040 and 1041 of Part I of the Fort St. George Gazette, dated the 26th August 1919, as subsequently amended, and arising within the limits of the jurisdiction of the Bench.

II

[P.T.O.]

2 13

In exercise of the powers conferred by sub-section (1) of section 15 of the Code of Criminal Procedure, 1898(V of 1898), the Government of Madras are hereby pleased to empower the Bench of Magistrates established at Udipi in the district of South Kanara. to take cognizance under clauses (a) and (b) of sub-section (1) of section 190 of the said Code, of the offences specified in, and subject to the provisions of, Home (Judicial) Department Notification No.737, dated the 13th August 1919, published at pages 1040 and 1041 of Part I of the Fort St. George Gazette, dated the 26th August 1919, as subsequently amended, and arising within the limits of the jurisdiction of the Bench.

A vn p. 2-7

To the D.M. South Kanara
S.G.P. for publication of notifications.
Mrs. L. M. Fernandes
through the D.M. South Kanara

Dpd. by Van / Post / Messenger
Dpr.'s initials. BW
Date 26.9.1938